

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

Larry G. Philpot, an individual)	
)	
Plaintiff;)	
)	
vs.)	No. 4:18-cv-00705
)	
Answers.com Corporation, a)	
Delaware Corp.; and)	Jury Trial Demanded
DOES 1-10,)	
)	
Defendants.)	

**ANSWERS CORPORATION'S ANSWER
AND AFFIRMATIVE DEFENSES TO THE COMPLAINT**

Defendant Answers Corporation (“Answers”) states as follows for its Answer and Affirmative Defenses to the Complaint of Plaintiff Larry G. Philpot (“Plaintiff”). Except to the extent expressly admitted herein, Answers denies each and every allegation of the Complaint. The numbered paragraphs below correspond to the numbered paragraphs in the Complaint.

JURISDICTION AND VENUE

1. Answers admits that Plaintiff has attempted to state claims under the United States Copyright Act and Digital Millennium Copyright Act. Answers otherwise denies the allegations in Paragraph 1.
2. Answers admits that this Court has personal jurisdiction over Answers.
3. Answers denies the allegations in Paragraph 3.
4. Answers admits that venue is proper. Answers otherwise denies the allegations in Paragraph 4.

PARTIES

5. Answers lacks knowledge and information sufficient to form an admission or denial

regarding the allegations in Paragraph 5 and therefore denies those allegations.

6. Answers admits that it operates a website that provides questions on topics both popular in the current news media and relevant to a broad audience, and answers to those questions. Answers admits that it operates its website at <http://www.answers.com>. Answers admits that it is a limited liability corporation, organized and existing under the laws of the state of Delaware, with its principal place of business located in St. Louis, Missouri. Answers otherwise denies the allegations in Paragraph 6.

7. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 7 and therefore denies those allegations.

8. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 8 and therefore denies those allegations.

FACTS COMMON TO ALL COUNTS

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9. Answers admits that Plaintiff attached an Exhibit A to its complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 9 and therefore denies those allegations.

10. Answers admits that Plaintiff attached an Exhibit B-1 to its complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 10 and therefore denies those allegations.

11. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 11 and therefore denies those allegations.

12. Answers admits that Plaintiff attached an Exhibit C-1 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 12 and therefore denies those allegations.

13. Answers admits that Plaintiff attached an Exhibit D-1 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 13.

14. Answers denies the allegations in Paragraph 14.

15. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 15 and therefore denies those allegations.

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16. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 16 and therefore denies those allegations.

17. Answers admits that Plaintiff attached an Exhibit B-2 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 17 and therefore denies those allegations.

18. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 18 and therefore denies those allegations.

19. Answers admits that Plaintiff attached an Exhibit C-2 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 19 and therefore denies those allegations.

20. Answers admits that Plaintiff attached an Exhibit D-2 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 20.

21. Answers denies the allegations in Paragraph 21.

22. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 22 and therefore denies those allegations.

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23. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 23 and therefore denies those allegations.

24. Answers admits that Plaintiff attached an Exhibit B-3 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 24 and therefore denies those allegations.

25. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 25 and therefore denies those allegations.

26. Answers admits that Plaintiff attached an Exhibit C-3 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 26 and therefore denies those allegations.

27. Answers admits that Plaintiff attached an Exhibit D-3 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 27.

28. Answers denies the allegations in Paragraph 28.

29. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 29 and therefore denies those allegations.

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30. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 30 and therefore denies those allegations.

31. Answers admits that Plaintiff attached an Exhibit B-4 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining

allegations in Paragraph 31 and therefore denies those allegations.

32. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 32 and therefore denies those allegations.

33. Answers admits that Plaintiff attached an Exhibit C-4 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 33 and therefore denies those allegations.

34. Answers admits that Plaintiff attached an Exhibit D-4 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 34.

35. Answers denies the allegations in Paragraph 35.

36. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 36 and therefore denies those allegations.

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37. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 37 and therefore denies those allegations.

38. Answers admits that Plaintiff attached an Exhibit B-5 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 38 and therefore denies those allegations.

39. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 39 and therefore denies those allegations.

40. Answers admits that Plaintiff attached an Exhibit C-5 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 40 and therefore denies those allegations.

41. Answers admits that Plaintiff attached an Exhibit D-5 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 41.

42. Answers denies the allegations in Paragraph 42.

43. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 43 and therefore denies those allegations.

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44. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 44 and therefore denies those allegations.

45. Answers admits that Plaintiff attached an Exhibit B-6 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 45 and therefore denies those allegations.

46. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 46 and therefore denies those allegations.

47. Answers admits that Plaintiff attached an Exhibit C-6 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 47 and therefore denies those allegations.

48. Answers admits that Plaintiff attached an Exhibit D-6 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 48.

49. Answers denies the allegations in Paragraph 49.

50. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 50 and therefore denies those allegations.

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51. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 51 and therefore denies those allegations.

52. Answers admits that Plaintiff attached an Exhibit B-7 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 52 and therefore denies those allegations.

53. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 53 and therefore denies those allegations.

54. Answers admits that Plaintiff attached an Exhibit C-7 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 54 and therefore denies those allegations.

55. Answers admits that Plaintiff attached an Exhibit D-7 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 55.

56. Answers denies the allegations in Paragraph 56.

57. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 57 and therefore denies those allegations.

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58. Answers admits that Plaintiff attached an Exhibit A to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 58 and therefore denies those allegations.

59. Answers admits that Plaintiff attached an Exhibit B-8 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining

allegations in Paragraph 59 and therefore denies those allegations.

60. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 60 and therefore denies those allegations.

61. Answers admits that Plaintiff attached an Exhibit C-8 to its Complaint. Answers lacks knowledge and information sufficient to form an admission or denial regarding the remaining allegations in Paragraph 61 and therefore denies those allegations.

62. Answers admits that Plaintiff attached an Exhibit D-8 to its Complaint. Answers admits that it owns, operates, or has a financial interest in or benefit from its website. Answers denies the remaining allegations in Paragraph 62.

63. Answers denies the allegations in Paragraph 63.

64. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 64 and therefore denies those allegations.

FIRST CLAIM FOR RELIEF

Copyright Infringement, 17 U.S.C. § 501

65. Answers incorporates by reference its foregoing responses to the preceding Paragraphs.

66. Answers admits that Plaintiff attached Exhibits B 1-8 to its Complaint.

67. Answers lacks knowledge and information sufficient to form an admission or denial regarding the allegations in Paragraph 67 and therefore denies those allegations.

68. Answers denies the allegations in Paragraph 68.

69. Answers denies the allegations in Paragraph 69.

70. Answers denies the allegations in Paragraph 70.

71. Answers denies the allegations in Paragraph 71.

72. Answers denies the allegations in Paragraph 72.

SECOND CLAIM FOR RELIEF

For Violations of the Digital Millennium Copyright Act, 17 U.S.C. §§ 1202 and 1203

73. Answers incorporates by reference its foregoing responses to the preceding Paragraphs.

74. Answers denies the allegations in Paragraph 74.

75. Answers denies the allegations in Paragraph 75.

76. Answers denies the allegations in Paragraph 76.

77. Answers denies the allegations in Paragraph 77.

78. Answers denies the allegations in Paragraph 78.

PRAYER FOR RELIEF

Answers denies that Plaintiff is entitled to any of the relief it purports to seek.

DEMAND FOR JURY TRIAL

Answers states that this Paragraph contains no allegations that require a response.

AFFIRMATIVE AND ADDITIONAL DEFENSES

Answers asserts the following affirmative and additional defenses:

1. The Complaint and each count thereof fail to state a claim or cause of action upon which relief can be granted.
2. Answers's lack of actual knowledge of any underlying direct copyright infringement bars the claims for secondary copyright infringement against it.
3. Answers's lack of intent to induce, cause, or materially contribute to any underlying infringement bars the claims against it.
4. Plaintiff's claims are barred to the extent they do not own copyrights in the works underlying their claims.
5. Plaintiff's claims are barred to the extent that Plaintiff or their predecessors did not

register copyrights before alleged infringements or within three months of first publication of published works, the failure to register timely bars Plaintiff's claims for statutory damages and attorneys' fees.

6. Plaintiff's claims for damages are barred, in whole or in part, by its failure to mitigate damages.

7. Plaintiff's claims are barred by at least one of the equitable doctrines of waiver, laches, estoppel and/or unclean hands.

8. The statute of limitations, 17 U.S.C. § 507(b), bars Plaintiff's claims to the extent Plaintiff alleges liability for instances of alleged infringement that occurred more than three years before Plaintiff filed its Complaint in this matter.

9. Plaintiff's claims are barred by the doctrine of copyright misuse.

10. Fair use under the Wikimedia licensing bars Plaintiff's claims against Answers.

11. The safe harbor under 17 U.S.C. § 512 bars Plaintiff's claims against Answers.

RESERVATION OF RIGHTS

Answers reserves the right to add any additional defenses that discovery may reveal.

JURY DEMAND

Answers requests a trial by jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, having fully answered, Answers respectfully requests that the Court enter judgment in favor of Defendant and against the Plaintiff as follows:

- A. Holding that Plaintiff is not entitled to any relief, whether legal, equitable, or otherwise;
- B. Declaring that Answers does not directly or contributorily infringe any of the copyrights asserted by Plaintiff;

- C. Awarding Answers its reasonable costs and attorneys' fees and expenses in connection with this action; and
- D. Granting such other and further relief to Answers as the Court may deem just and proper.

Dated: June 28, 2018

By: /s/ Jennifer E. Hoekel

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*Attorneys for Defendant ANSWERS
CORPORATION*

CERTIFICATE OF SERVICE

The undersigned certifies that on June 28, 2018, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system pursuant to E.D.Mo. L.R. 5-2.12.

/s/ Jennifer E. Hoekel

Jennifer E. Hoekel